

Miller of my staff. They worked long and hard on this bill, and I think that it will get, if not a unanimous vote of this body, certainly a near unanimous vote. It is a job well done, and I am very pleased on behalf of Senator HUTCHISON and myself to recognize that.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time has expired. The question is on the adoption of the conference report.

The yeas and nays were previously ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS), the Senator from Nevada (Mr. ENSIGN), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote "yea."

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—96

Akaka	Edwards	Mikulski
Allard	Enzi	Miller
Allen	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McConnell	

NAYS—1

McCain

NOT VOTING—3

Bennett	Burns	Ensign
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The conference report was agreed to. Mrs. HUTCHISON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank all Senators who supported this very important legislation. Senator FEINSTEIN and I are very appreciative of the support of Congress.

This bill is now on its way to the President. It will provide support to our men and women in the field in their quality of life, quality of their equipment, and in the quality of their training. We can do no less. I appreciate the support of the Senate.

The PRESIDING OFFICER. The Senator from North Dakota.

MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes between now and 12:30 today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS

Mr. DORGAN. Mr. President, I ask unanimous consent the Senate stand in recess from 12:30 until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNET TAXATION

Mr. DORGAN. Mr. President, I am going to propound a unanimous consent that I understand may be objected to, but for the moment I will describe what I am about to do and why I want to do it today.

As most of us know who have worked on an issue called the Internet tax moratorium issue, the moratorium that now exists with respect to Internet taxation expires on Sunday of this week. The expiration of the Internet Tax Moratorium Act on Sunday means that next week there will no longer be the prohibition that exists in that act.

Many of us believe we ought to do a couple things.

One, the Internet Tax Moratorium Act is one that I supported because it would have prohibited additional States from imposing taxes on access to the Internet. I support that. It actually grandfathered some States. I would have been content to eliminate the grandfathering even. I don't think we ought to be taxing access.

It also said that we will not allow discriminatory or punitive taxes with respect to Internet transactions. I supported that as well and was happy to vote for that legislation. It had an end date on it. That end date is this Sunday.

What we have been trying to do for a long time is to construct an extension of the Internet tax moratorium, which I support, and attach to that a provision that would allow State and local governments to solve a very significant problem they are confronted with; that

is, remote sellers are selling all across this country now in a significant way and in many instances—in fact, most instances—they are not required to collect local taxes when they make those sales.

The remote sellers say it would be very difficult for them to collect the local sales and use taxes because you have thousands of jurisdictions around the country with different tax rates, different bases, and so on. It would be horribly complicated to subject a remote seller to all of those different standards and different jurisdictions. I am sympathetic to that.

For that reason, I believe State and local governments ought to be required to simplify the tax system by which consumption taxes would be imposed on remote sales.

At the moment, the courts have said the State and local governments may not impose their consumption taxes on remote sales unless the remote seller has a location in that State. The only change that could occur that would allow them to enforce a collection would be the Congress, under the commerce clause, describing a different nexus so that State and local governments could in fact enforce a requirement of collection. I don't believe we ought to do that unless we also require State and local governments to dramatically simplify their sales and use tax system. And when we do that, State and local governments should then be able to enforce a collection.

You have two things: Requiring a simplification of a system, and then requiring remote sellers to collect the tax and remit it to the States.

Why is this important? It is important for two reasons. One is fairness. Main street sellers are required to collect the tax, and their competitors from a remote circumstance are not required to collect the tax. That is not a fair situation.

Second, there is a substantial amount of lost revenue, much of which would be used to finance schools in this country, and that lost revenue is injuring the tax base of State and local governments and injuring the opportunity to fund education which is funded, as most of us know, predominantly by State and local taxes.

What I propose is the following: We extend the moratorium for about 8 months to next June 30. That moratorium extension would be accompanied by a sense of the Congress in my bill. It is only a two-page bill: It is a sense of Congress that State governments and interested business organizations should expedite efforts to develop a streamlined sales and use tax system that, once approved by Congress, would allow sellers to collect and remit sales and use taxes without imposing an undue burden on interstate commerce.

The House of Representatives, I believe this week, passed a 2-year extension on the moratorium, with really nothing involved in it, that actually begins to address the other side of the

equation; that is, how do you deal with all of this lost revenue and the need to fund our schools and education?

We really need to deal with both issues. I agree with the extension of the moratorium. What I propose is that we extend the moratorium to next June 30, do that immediately—I will propose a unanimous consent request when I send this to the desk—and between now and then, ask all of the sides involved to get serious and get this done, develop a compact we can work on together, and therefore require simplification of local tax systems and allow the State and local governments to enforce collection.

My colleague, Senator ENZI from Wyoming, with whom I have worked, as well as Senator VOINOVICH, Senator WYDEN, Senator MCCAIN, Senator GRAHAM of Florida, and many others have worked on this issue for a long while. We have not met success at this point. But Senator ENZI has been working very hard on it and another approach that would have a longer extension but would establish a more concrete system by which the State and local governments could develop a compact.

I am going to be a cosponsor of that proposal. I know he is working with other colleagues on it. I think that is good work as well. In the interim, I didn't want people to think that those of us who were working to solve both problems here—and there are two problems—were insensitive to the need to extend the moratorium. For that reason, I propose today that we extend the moratorium to next June 30. I will ask unanimous consent to do so, and I will send S. 1504 to the desk.

UNANIMOUS CONSENT REQUEST—
S. 1504

Mr. DORGAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1504, the Internet tax moratorium bill; that the Senate then proceed to its immediate consideration, that the bill be read three times, passed, and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, I will state the objection that I understand will be raised, but let me assure my colleague and friend that there is an interest on both sides of the aisle to extend the moratorium, maybe with not this precise language, maybe it would be the Enzi proposal, maybe it would be something Senators ALLARD and MCCAIN and others are working on. We will try to work with you to make sure the moratorium is extended. At this particular time, an objection will be raised.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Mr. President, let me say that I understood there would be

an objection. We will now experience a circumstance where the moratorium expires on Sunday. My expectation is that will not have much material impact on what or what might not happen in the country in the intervening days.

It is my hope that all of us who have worked on this can reach an agreement on how to do a number of these things. I don't want to retard the ability of remote sellers, catalogs, Internet, or other devices; I don't want to retard their ability to use that marketing strategy to enhance commerce in this country. I don't want to burden them in a way that would be unfair.

By the same token, we have this growth of remote sales by enterprises that, in many cases, have grown very large but have very few locations and use the mail and Internet transactions with which to conduct business; much of the commerce is then outside of the ability of State and local governments to receive the sales and use tax from that commerce just as other transactions would require.

That doesn't mean that when you buy something over the Internet, or from a catalog, it is tax free; it is not. A use tax is required to be paid, but almost no one pays it.

Some would make the case that, for example, those who want to solve this problem are talking about a new tax. Nothing could be further from the truth. There is already a tax on these transactions. It is not paid because it is horribly complicated for individual citizens to find a use tax form and submit a use tax to Oklahoma, or North Dakota, or Virginia, and say, by the way, I bought a shirt, or shoes, or a tool set, and here is the use tax I owe because the sales tax wasn't collected when I purchased it.

Because of that set of circumstances, we believed it would be better for the seller and the buyer to find a way to collect that, remit that to the coffers of State and local governments. It is used largely for education and improving and strengthening our schools, and we believe it would be important to do that.

We are trying to solve several problems. I believe at the end of the day we will extend this moratorium. I wish we had done it today. We will extend this moratorium. My colleague from Wyoming would make permanent the moratorium on taxing access. I will support that. We will extend the moratorium. If we are doing the right thing, I think we will at the same time begin to address the second part of the issue on behalf of the Governors, mayors, State legislators, States, school administrators, and all the folks who care about that.

On the other side, we are going to address the question of complexity on behalf of the remote sellers. They are not just whistling in the dark here. This is a real problem and a serious problem that we have to address. We are dealing with both sides of the equation. I support addressing both sides in a thoughtful and sensible way.

Again, I understand why an objection was raised, although I regret that it was made. I wish we had been able to extend the moratorium today. I want everybody to understand that there is no division in the Senate, in my judgment, about whether the moratorium should be extended; it is how long, and should we do it without trying to find a way to buckle up the other part of the solution. We ought to, in my judgment, deal with both sets of problems at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, as the Senate sponsor of the Internet tax freedom bill, I appreciate a chance to set the record straight about exactly what this law is.

For example, it is continually cited that the Internet tax freedom law creates a kind of Cayman Islands for the Internet, where you can't collect taxes. That is not right. The only thing the Internet tax freedom law does is it bans discriminatory taxes. You can tax the Internet; you just must do to the offline world what you do to the online world. That is No. 1.

No. 2, not a single jurisdiction in this country—not even one—has been able to show any evidence that they have been hurt by their inability to impose discriminatory taxes on electronic commerce. We are constantly told by the mayors and Governors in some jurisdictions that they have been hurt. We have repeatedly asked for the evidence, and there has been none forthcoming.

I have made it clear that I am very anxious to work with the mayors and Governors on this issue. I was not aware there was going to be an effort to extend the moratorium today for just a few months, because we have had these negotiations now for 18 months in an effort to try to bring the parties together. I want to make it clear that I am anxious to continue those negotiations.

No. 3, there is absolutely nothing in current law that prohibits States and localities from collecting revenue that is owed to them. There is nothing in the Internet Tax Freedom Act that bars them from doing that. I just hope that as we make this effort to bring together technology companies, States, localities, and the mayors, we can recognize that it is possible today under current law to collect all taxes owed. The reason it is not done is, A, the technology doesn't exist to do it in a fashion that would not burden business and, B, a lot of the mayors and Governors don't want the political heat associated with collecting those taxes. Probably most illustrative of this point is what former Governor Celucci of Massachusetts, now Ambassador to Canada, said: Look, I am not going to put people on the border of Massachusetts to chase people down coming